

Appl. No. 10/645,079
Docket No. 9343
Reply dated November 17, 2006
Reply to Office Action mailed on August 24, 2006
Customer No. 27752

REMARKS

Claim Status

Claims 1 and 3-13 are pending in the present application.

Claim 2 is canceled without prejudice.

Claims 3-13 have been amended to remove "cosmetic" from in front of article to correct antecedent basis. Claim 4 has also been amended to recite that the article comprises from about 0.01% to 1500%, by weight of the laminate, of the lathering surfactant. Support for this amendment is found at page 11, lines 16-22 of the specification. Claim 13 has also been amended to recite "carboxylic acids." Support for this amendment can be found in Claim 12 and in the specification on page 8, lines 1-15.

Claims 14-25 have been withdrawn as a result of an earlier restriction requirement.

Rejection Under 35 USC §112, Second Paragraph

The Office Action States that Claims 2-13 recite a "cosmetic article" and there is insufficient antecedent basis for this limitation within the claim. In response, Claims 3-13 have been amended to recite "article."

The Office Action states that Claim 13 recites the limitation "hydroxycarboxylic acids" and there is insufficient antecedent basis because Claim 12 does not recite "hydroxycarboxylic acids." In response, the Applicants have amended Claim 13 to recite "carboxylic acids" because "C₂ to C₂₀ organic mono- and poly-carboxylic acids" are recited in Claim 12.

The Office Action states that Claim 4 is indefinite and fails to recite and particularly point out and distinct claim the subject matter of the invention because that the lathering surfactant content in the claimed article is up to 1500% by weight of the article. In response, the Applicants have amended the claim to recite that the article comprises from about 0.01% to 1500%, by weight of the laminate, of the lathering surfactant. Support for this amendment is found at page 11, lines 16-22 of the specification.

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The Applicants believe these amendments to the claims represent an earnest effort to place the claims in proper form. In view of the forgoing amendments and remarks, the Applicants respectfully submit that the rejection should accordingly be withdrawn.

Rejection Under 35 USC §102 Over Slavtcheff, et al. (U.S. Patent No. 6,451,331)
(hereinafter referred to as "Slavtcheff").

Claim 1 is rejected under 35 USC §102(b) as being anticipated by Slavtcheff. The Applicants respectfully traverse this rejection. Slavtcheff does not teach each and every element of the claimed invention. Specifically, Slavtcheff does not teach an article for cleansing body surfaces that comprises a laminate which comprises a lathering surfactant distributed over a first layer and an effervescent composition is present between the webs of the second layer. Slavtcheff does not teach an article for cleansing body surfaces that comprises an effervescent composition and a lathering surfactant which are in separate locations within the article. In fact, the surfactant and the effervescent composition of Slavtcheff are positioned together within the sachet (See Slavtcheff column 4, 15-17 and 65-67, Examples 1-6, and Claims 1 and 5). Because Slavtcheff does not teach each and every element of amended Claim 1, the claimed invention is not anticipated. Thus, the Applicants respectfully submit that the rejection should accordingly be withdrawn.

Rejection Under 35 USC §103(a) Over Slavtcheff, et al. (U.S. Patent No. 6,451,331)
(hereinafter referred to as "Slavtcheff") in view of Bries, et al. (U.S. Patent No. 5,110,843) (hereinafter referred to as "Bries").

Claims 1-5 and 10-12 have been rejected under 35 USC §103(a) as being obvious over Slavtcheff in view of Bries.

The Applicants respectfully traverse the rejection.

According to Section 2143 of the MPEP, to establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Page 8 of 10

Appl. No. 10/645,079
Docket No. 9343
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Customer No. 27752

The combination of Slavtcheff and Bries does not provide the motivation for one skilled in the art to modify the reference to create the article recited in amended Claim 1 which comprises a laminate that comprises a lathering surfactant distributed over a first layer and an effervescent composition is present between the webs of the second layer. Slavtcheff does not teach or suggest an article for cleansing body surfaces that comprises an effervescent composition and a lathering surfactant which are in separate locations within the article. Slavtcheff teaches "a swiping article which includes an effervescent cleanser composition held within a sachet" (See Slavtcheff, abstract). The surfactant and the effervescent composition in the article of Slavtcheff are positioned together within the sachet (See Slavtcheff column 4, 15-17 and 65-67, Examples 1-6, and Claims 1 and 5). Bries teaches articles multilayered polyurethane foam having a detergent or cleaner impregnated in an inner layer (See Bries, column 5, lines 49-52). Bries does not teach an effervescent composition. Thus, one of ordinary skill in the art would not be motivated by Bries to separate the surfactant and effervescent composition of Slavtcheff, because Bries does not teach an article that comprises an effervescent composition. Therefore, the present invention is unobvious. Thus, the Applicants respectfully submit that the rejection should accordingly be withdrawn.

Double Patenting

Claims 1-13 have been provisionally rejected for obviousness-type double patenting over claims 1-35 of the commonly assigned, copending application U.S. Serial Nos. 10/949,833 and 10/645,080. An appropriate terminal disclaimer is submitted herewith this response. Thus, the rejection is obviated.

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CONCLUSION

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 USC §102, 35 USC §103 and Double Patenting. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1 and 3-13 is respectfully requested.

Respectfully submitted,

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